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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,771	09/18/2001	Richard K. Bolen	072395.00003	8544

7590 04/05/2004

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EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 04/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/954,771

Applicant(s)

BOLEN, RICHARD K.

Examiner

Hanh V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. Upon further consideration, the finality of the Office action mailed on 10/09/2003 is hereby withdrawn. The After-Final Amendment filed on 2/12/2004 has been entered. The following is a Non-Final Office action. Any inconvenience is regretted.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5, line 10, the limitation of "a second lock engageable" is vague, thus indefinite for failing to clearly define the metes and bounds of the claimed invention. More specifically, it is not clear to what the second lock being "engageable" to.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 3,804,294 to Householder in view of USP 3,783,986 to Bolen and USP 2,696,324 to Jones.

Householder is cited showing a bulk vending machine comprising all the elements recited in the above listed claims including a lid 75, a container 60 with a bottom 80, a base 30 with walls 34, 35, a front wall 41 pivotally mounted about a bottom front edge of the base and interlocking with a downwardly projecting lip of the container from the base, a lock 120 and a coin box 110. Householder fails to show a base top frame or a lock mounted in the front wall.

Jones is cited showing a first lock 84 and a second lock in a front wall 30 for the purpose securing the front wall, base and container. Bolen is cited showing a machine with a container 60 having a bottom 55 and a base 25 having a top frame 40 for the purpose of supporting the container on the base and enclosing the container and base. Since the references are from the same field of endeavor the purpose of Jones and Bolen would have been obvious in the pertinent art of Householder at the time of the invention. Therefore, it would have been obvious for one having an ordinary skill in the art to have modified Householder with a second lock in a front wall 30 for the purpose of securing the front wall, base and container in view of Jones and with a container having a bottom and a base having a top frame for the purpose of supporting the container on the base and enclosing the container and base a in view of Bolen.

7. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of USP 2,696,324 to Jones.

Applicant's admitted prior art teaches all the elements recited in the above listed claims, and as clearly stated in claim 5 of "the improvement comprising in combination therewith..."

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The different being that applicant's admitted prior art fails to disclose a second lock mounted on the base front wall.

Jones is cited showing a first lock 84 and a second lock in a front wall 30 for the purpose securing the front wall, base and container. Therefore, it would have been obvious to modify the structure of applicant's admitted prior art with a lock in a front wall 30 for the purpose of securing the front wall, base and container in view of Jones, since both teach alternate conventional vending machine structure, used for the same intended purpose, thereby providing structure as claimed.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Balaz, Eppy, Bolen, Jr., Ra '519, Ra '471, Schwarzli '171, Heimlich et al, and Rau all show structures similar to various elements of applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT

March 30, 2004



Hanh V. Tran

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